

REMARKS

Favorable consideration of this application, as presently amended, is respectfully requested.

Claims 1, 18-26, and 28-42 are pending. Claims 1 and 18 are amended. Support for amended claims 1 and 18 is found in at least the previously presented claims and, with respect to the switching of the features previously recited in elements h) and i), support is found in at least specification page 11, example 10. With respect to thickness of the last absorbent layer being at least 3 nm as recited in new claims 37 and 39, support is found in at least the examples reported in specification Table 1 on page 11. Support for new claims 38 and 40-42 is found in at least the previously presented claims. Thus, no new subject matter is added.

Applicants wish to thank the Examiner for the courtesies extended during the interview of May 12, 2010. In view of the discussion during the interview, Applicants have now amended claim 1 to further identify certain materials for the absorbent layers as previously recited in claim 18.

At item 1, the Office Action rejects claims 1, 18-26, and 28-36 under 35 U.S.C. § 112, ¶ 2 as indefinite. Specifically, the Office Action asserted that the phrase “when the transparent substrate is a 6 mm clear soda-lime glass” was unclear as to whether it was intended to claim a 6 mm clear soda-lime glass having the properties recited in claim 1 or whether the transparent substrate can be any material but when the transparent substrate is a 6 mm clear soda-lime glass it has the specific properties recited in claim 1. As discussed during the interview, Applicants respectfully submit that the second interpretation is the one communicated by the existing language of claim 1. In other words, claim 1 does not require that the coatings be on a transparent 6 mm soda-lime glass, rather the coated substrate has the

recited properties when it is on such a glass. In view of these comments, Applicants submit that the rejection under 35 U.S.C. § 112, ¶ 2 has been overcome.

At item 2, the Office Action rejects claims 1, 18-26, and 28-36 under 35 U.S.C. § 102(b) as anticipated by Boire et al. (US 6,045,896) or alternatively over Boire in view of Coustet et al. (WO-02/48065). Applicants respectfully traverse these rejections.

In particular, the Office Action asserts that Boire et al. discloses a glazing assembly having the claimed layers. The Office Action specifically identifies the layer sequence reported in Boire et al. Table 3 as anticipating claim 1. As discussed during the Examiner interview, the ZnO layers 2b and 8a in Boire et al. Table 3 were identified by the Office Action as the claimed absorbent layers. However, ZnO is not an absorbent layer in accordance with the invention and in fact the present specification expressly describes ZnO layers as “non-absorbent” on page 6, lines 18-28. For the avoidance of any doubt, Applicants have now also amended claim 1 to expressly recite that the absorbent layers are selected from a list of specific materials previously recited in dependent claim 18. ZnO is not included in the listing of absorbent materials recited in amended claim 1. As also discussed during the interview, Applicants note that the ZnO layers 2b and 8a of Boire et al. Table 3 are not light absorbent layers but are stabilizing layers (see col. 4, lines 45-63) or layers that absorb migrating silver (col. 4, lines 16-24) rather than light absorbing layers. See also col. 3, lines 16-19. For all of the above reasons, Applicants submit that the anticipation rejection over Boire et al. has been overcome.

Applicants understand that the alternative rejection of the claims over Boire in view of Coustet et al. was premised on the incorrect understanding that the claims were limited to a 6 mm transparent glass substrate. Since this understanding is incorrect, and as discussed during the personal interview, Applicants understand that the alternative basis for rejection is not applicable and need not be further addressed.

Accordingly, Boire et al. does not disclose or suggest the features recited in claim 1, or in claims 18-26 and 28-37 which depend on claim 1. It is submitted that amended independent claim 1 and dependent claims 18-26 and 28-37 depending therefrom are in condition for allowance.

New independent claim 38 includes the same structural features as recited in independent claim 1, including the specifically enumerated materials for the light absorbent layers. Accordingly, Applicants submit that new independent claim 38, and claims 39-42 which depend on claim 38, are in condition for allowance for at least the same reasons as claim 1.

For the reasons discussed above, no further issues are believed to be outstanding in the present application, and the present application is believed to be in condition for formal allowance. Therefore, a Notice of Allowance for claims 1, 18-26, and 28-42 is earnestly solicited.

Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, the Examiner is encouraged to contact Applicant's undersigned representative at the below listed telephone number.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, L.L.P.



Andrew M. Ollis
Attorney of Record
Registration No. 40,749

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413-2220
(OSMMN 06/04)